

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Appln. No. 09/899,212

**REMARKS**

The present invention relates to a strain of microorganism belong to the genus *Altermonas* having the ability to produce a biojelly, and coatings and methods using such.

In the Office Action Summary, the Examiner acknowledges Applicants' Information Disclosure Statement and Form PTO-1449 (copy attached). However, a copy of the Form PTO-1449 initialed by the Examiner was not attached to the Office Action. Applicants respectfully request that the Examiner provide an initialed copy of the Form PTO-1449 to the undersigned.

Applicants appreciate the Examiner's acknowledgement that upon allowance of a composition claim, the claims directed to the use of this allowable composition may be rejoined.

In this Amendment, claim 11 has been added as a new claim. Support for this amendment is found, for example, in original claim 1, Table 1, and pages 2-3 and 9 of the specification. Claim 1 has been cancelled.

Claims 2, 3 and 5 have accordingly been amended to be dependent from new claim 11.

No new matter has been added and entry of this Amendment is respectfully submitted to be proper. Upon entry of this Amendment, claims 2-6 and 11 are all the claims pending in the application.

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Claims 2, 4 and 6 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter not described in the specification. Specifically, it was asserted that the specification does not disclose the process to obtain the microorganism.

Applicants respectfully submit that the microorganism has been made available to the public through deposit made under the Budapest Treaty, and accordingly, the rejection should be withdrawn. Applicants attach herewith an executed Statement of Availability.

Claims 1, 3 and 5 have been rejected under 35 U.S.C. § 102(b), as allegedly being anticipated by EP 84334 or Bozal et al.

EP 84334 was relied upon as teaching a microbe from the genus *Alteromonas* which produces exopolysaccharides (biojelly) and the fermentation broth contains both the polysaccharide and the microbe.

Bozal et al was relied upon as teaching a microbe (NF<sub>3</sub>) from the genus *Alteromonas* which produces exopolysaccharides and can be in a mucoid or a viscous substance capable of coating objects.

In this Amendment, claim 1 has been cancelled and claim 11 has been added to recite the subject matter of original claim 1 with further limitations. Accordingly, claim 11 is considered in place of claim 1.

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Applicants respectfully submit that neither EP 84334 nor Bozal et al teach or suggest the present invention in accordance with new independent claim 11 and the dependent claims 2-6.

In the present invention, the strain of microorganism produces a biojelly which is substantially insoluble in seawater. For example, as described at from page 2, line 35 to page 3, line 2 of the present specification, “the term biojelly means a slimy or jelly-like substance produced by some strains of microorganism belonging to the genus *Alteromonas*. ” In addition, as described in the “best mode for carrying out the invention”, the microorganism of the present invention produces an insoluble thin film in the culture broth (in liquid medium 2, the culture broth is seawater).

On the other hand, the polysaccharide produced by the microorganism disclosed in EP 84334 (MP-86) is soluble in seawater and not a slimy or jelly-like substance. Therefore, the polysaccharide produced by MP-86 is not a biojelly insoluble in seawater.

Accordingly, Applicants submit that the microorganism of the present claim 11 and *Alteromonas vaga* MP-86 disclosed in EP 84334 are not identical.

Further, the microorganism disclosed in Bozal et al has a Na<sup>+</sup> requirement on a different level from *Alteromonas* species. As described at page 566 of Bozal et al, NF<sub>3</sub> needs a Na<sup>+</sup> concentration of at least 17mM (0.1%), that means NF<sub>3</sub> grows in 1% NaCl. Since the presently claimed microorganism does not grow in 1% NaCl, it is clearly not anticipated based on NF<sub>3</sub>.

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In view of the above, the Examiner is respectfully requested to reconsider and withdraw the rejections.

In view of the above, allowance of claims 11 and 2-6 are respectfully submitted to be proper, and such action is hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the local Washington, D.C. telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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PATENT TRADEMARK OFFICE

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APPENDIX  
VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claims 1 and 7-10 are cancelled.

The claims are amended as follows:

2. (amended) The strain of microorganism according to Claim + 11 which is FERM BP-  
7623.

3. (amended) A coating containing the strain of microorganism according to Claim + 11.

5. (amended) A coating film containing the strain of microorganism according to Claim +  
11.

Please add new claim 11 as follows:

11. (new) A strain of microorganism belonging to the genus *Alteromonas* growing in  
seawater, not growing in 1% NaCl, and having the ability to produce a biojelly insoluble in seawater.